UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,373	11/28/2000	Nancy L. Saxon	60,130-868	9170

26096 7590 12/12/2002

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER
GIBSON, RANDY W

ART UNIT	PAPER NUMBER
2841	

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/724,373	SAXON ET AL.	
	Examiner	Art Unit	
	Randy W. Gibson	2841	

-- Th MAILING DATE of this communication app ars on th cover she t with the corr spondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 October 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 October 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed October 23, 2002 have been fully considered but they are not persuasive. The applicant stated that claim 1 had been amended to contain the limitation that "said load optimization data comprises at least government load limit information" and that none of the references of record disclose this feature. The examiner disagrees; ALL of the references of record disclose this feature either expressly or by implication. What is inherently meant by an "overload" condition in a truck is that the truck is over its legal weight limit; see column 1, lines 29-61 of Stevenson for example. This is the broadest reasonable interpretation of the general intent statement that the load optimization date incorporates "government load limit information".

Applicant has also stated that claim 16 requires "producing instructions for optimizing load distribution based on the evaluation" and none of the references of record teaches this step. The examiner disagrees. Looking into the applicant's own written description to determine how to interpret this claimed limitation, one cannot help but notice that the application is extremely vague as to what these "instructions" are or how they are displayed. The lighted graphical display shown in Figure 5 of Stevenson, for example, could be considered graphical "instructions" since the lighted bars show where the weight is over the legal limit (inherently suggesting to the driver the need to move something from this specific location), and the lighted bars also show where the load is below the legal limit (thus inherently suggesting to the driver the need to move

something to this specific location). Since all of the references used by the examiner have a graphical display of some type which shows specific loading information in various locations as well as "government load limit information" (I.E.: overload or underload), then all of these displays are inherently providing loading "instruction" simply by showing the areas where the load is too great and needs to be moved away and the areas where the load is too light and requires the load to be moved to. This is the broadest reasonably interpretation given the applicant's limited description of exactly what an "instruction" is, how it is generated, or how it is displayed.

The additional limitations found in claims 5-8 have been discussed by the examiner already in the rejections in the last office action and do not need to be separately addressed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5, 7, 12-14, and 16-19 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kyrtsos. Kyrtsos discloses the claimed invention including at least one load sensor (Col. 2, lines 30-48; Col. 3, ln. 58 to col. 4, ln. 7), a display (Col. 2, lines 64-67), an evaluation unit (Col. 2, lines 58-63), and a memory unit for storing load optimization data (Col. 2, lines 49 –57; Col. 3, lines 36-57) which includes vehicle performance data (Col. 5, lines 30-35).

4. Claims 1-5, 9, 10, 12-14, 16, and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Baker. See column 4, line 49 to column 6, line 40.

5. Claims 1-5, 9, 10, 12-14, and 16-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stevenson. See column 7, lines 28-50 and column 8, lines 14-50.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyrtsos in view of Reiner et al. Kyrtsos discloses the claimed invention, as discussed *supra*, except he does not use vehicle power train information. However, Reiner et al teach that it is known to use vehicle power train information as an indicator of vehicle weight. Since Kyrtsos expressly state that the specific type of on-board vehicle weighing means is not critical to his invention, therefore any known weight sensing technique may be used, it would have been obvious to use power train information as a means for determining weight, as taught by Reiner et al, in the system of Kyrtsos motivated by its art recognized suitability for its intended use; see *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960); *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 0(Fed. Cir. 1988); and, *MPEP* § 2144.07.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson in view of Bradley. Stevenson discloses the claimed invention, as discussed *supra*, except he weighs his trailer by measuring the air pressure in the air springs of a vehicle instead of using weight information from the strain on the vehicle axles and the king pin assembly. Bradley teach that weighing a trailer by measuring strain on the trailer axes and the king pin assembly is an old art recognized alternative (Col. 1, lines 16-25) to the air bag weighing system of Stevenson, and Bradley also suggests that such a system has the additional advantage of facilitating trailer swapping by placing the entire load weighing system in the trailer itself (Col. 2, lines 15-23) – something that would be less practical with an air spring weighing system since the load on the kin pin

of the trailer of Stevenson has to be indirectly measured by sensing the air pressure in the rear suspension of the tractor of Stevenson. It would have been obvious to modify the system load distribution system of Stevenson to use the load sensing devices of Bradley since this method of sensing trailer load are at recognized functional equivalents and that the system of Bradley has the additional advantage of facilitating trailer swapping. See *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); and, *MPEP* § 2144.06.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Davis et al. Baker discloses the claimed invention, as discussed *supra*, except he does not have a hand held remote. Davis et al teach that the use of hand held remotes are known in the vehicle weighing art (Col. 5, lines 36-39). Since Baker discusses, in one embodiment, providing for remote access to the truck's on-board weighing information (Col. 5, line 64 to col. 6, line 40), it would have been obvious to the ordinary practioner in the art to provide the apparatus of Baker with a hand held remote, as suggested by Davis et al, for the convenience of the user.

10. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson in view of Campbell. Stevenson discloses the claimed invention, as discussed *supra*, except he does not incorporate the law of different jurisdictions into his display nor does his device allow selection between different limits imposed by different jurisdictions. However, Campbell teach that it is know that different jurisdictions have

different weight limits and that it is known to modify a display so that it can be switched between different weight limits accordingly (Column 1, lines 37-47; Column 6 line 62 to column 7, line 11). It would have been obvious to the ordinary practioner to modify the display of Stevenson with a simple electronic switch which would allow one to toggle between different pre-programmed maximum loads as this varies between jurisdictions.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §.706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.

December 10, 2002

Randy W. Gibson
Primary Examiner
Art Unit 2841